

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

LABORERS' LOCAL,

Plaintiff,

v.

INTERSIL, ET AL.,

Defendants.

Case No. 5:11-CV-04093 EJD

**ORDER GRANTING MOTION TO
ENTER JUDGMENT ON ORDER OF
DISMISSAL**

Presently before the court is Defendants' motion to enter judgment on order of dismissal. See Docket Item No. 36. For the reasons discussed below, Defendants' motion to enter judgment on order of dismissal will be granted and Plaintiff's Complaint will be dismissed without prejudice.

This is a shareholders' derivative action suit brought for the benefit of Nominal Defendant Intersil against certain executives and directors of Intersil. According to the Complaint, Plaintiff has been a shareholder of Intersil since July 2009. See Complaint, Docket Item No. 1, at ¶ 10. Intersil is a Delaware corporation, headquartered in Milpitas, California, which designs, develops, manufactures and markets high-performance analog and mixed-signal integrated circuits. Id. at ¶ 11. Compensia, a citizen of California, is an executive compensation advisory firm that assisted the Intersil Board in connection with the 2010 executive pay. Id. at ¶ 25. The thirteen individually named defendants are directors and officers of Intersil. Id. at ¶¶ 12-24.

On March 26, 2011, the Intersil Board recommended shareholder approval of the 2010 executive compensation. Id. at ¶ 36. On May 4, 2011, pursuant to the Dodd-Frank Wall Street

1 Reform and Consumer Protection Act (“Dodd-Frank Act”), a non-binding shareholder vote was
 2 held on executive compensation. Id. at ¶ 39. In that vote, 56 percent of voting Intersil shareholders
 3 rejected the Board’s 2010 CEO and top executive compensation. Id. at ¶¶ 2, 39.

4 On August 19, 2011, Plaintiff filed this action for breach of fiduciary duty and unjust
 5 enrichment on behalf of Intersil by one of its shareholders against several of Intersil’s current
 6 executives and Board of Directors. Before filing the Complaint, Plaintiff did not make a pre-suit
 7 demand on Intersil’s Board, instead alleging that demand would be futile. Id. at ¶ 45. Defendants
 8 filed motions to dismiss, which the court granted in its order of March 7, 2012. See Docket Item
 9 No. 31. The court gave Plaintiff leave to amend the Complaint by April 13, 2012, pursuant to a
 10 stipulation agreement between the parties. See Docket Item No. 34.

11 Plaintiff, however, did not file an amended Complaint in accordance with the court’s order.
 12 Instead, on April 13, 2012, Plaintiff filed notice that it had made a litigation demand on the Intersil
 13 Board of Directors. See Docket Item No. 35.

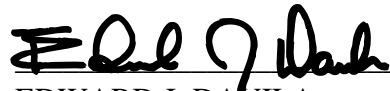
14 Pursuant to Local Rule 7-11, Defendants filed the instant motion to enter judgment on order
 15 of dismissal. See Docket Item No. 36. Plaintiff filed an opposition to Defendants’ motion and
 16 requested that the court stay the case. See Docket Item No. 39.

17 The court does not find good cause has been shown to stay the case. The court has already
 18 dismissed Plaintiff’s Complaint and ordered an amended complaint to be filed by April 13, 2012,
 19 per the parties’ stipulation. Because Plaintiff did not file an amended complaint, the court will
 20 enter a final judgment on the order to dismiss. See Fed. R. Civ. P. 41(b).

21 IT IS HEREBY ORDERED that Plaintiff’s Complaint is DISMISSED WITHOUT
 22 PREJUDICE. The Clerk shall close this file upon entry of Judgment.

23 **IT IS SO ORDERED.**

24 Dated: April 25, 2012

25 
 26 EDWARD J. DAVILA
 27 United States District Judge
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